

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

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MARCEL KOSZKUL,

Plaintiff,

Case No.

-against-

COMPLAINT

MICHELLE CARNEY,

Plaintiff demands trial by jury
of all issues so triable.

Defendant.
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Plaintiff MARCEL KOSZKUL, by his attorneys, Law Office of Richard A. Altman,
for his complaint against defendant, alleges as follows:

INTRODUCTION

1. This is an action for defamation, based upon defendant's repeated false accusations that plaintiff sexually assaulted and raped her.

2. The accusations were presented to, and adjudicated by, the Rochester Institute of Technology, in Rochester, New York ("RIT"), where both parties were students at the time..

3. The RIT rejected each and every one of the defendant's accusations.

4. The accusations were false and defamatory, defendant knew that they were false and defamatory when she made them, and plaintiff seeks a judicial determination that they are such, together with such damages as the Court and a jury may determine.

JURISDICTION AND VENUE

5. This Court has subject matter jurisdiction of this action pursuant to 28 U.S.C.

§ 1332(a)(1), in that it is between citizens of different States, and the amount in controversy exceeds the sum of \$75,000, exclusive of interest and costs.

6. Plaintiff is a resident and citizen of the State of Connecticut.

7. Defendant is a resident and citizen of the State of New York.

8. Pursuant to 28 U.S.C. § 1391(a), venue is proper in this district, in that the defendant is subject to personal jurisdiction in this district.

THE PARTIES AND THE STATEMENT

9. From September to November 2021, the parties were in a romantic relationship.

10. Their friends and other students were aware of their relationship.

11. The relationship ended in November 2021, because, as defendant told plaintiff in December, he was not a girl. It was an amicable ending.

12. In April of 2022, plaintiff heard rumors circulated that someone on the men's team had raped someone on the women's team.

13. Plaintiff did not consider at the time that the rumors could have been about him.

14. But on July 29, 2022, defendant sent a statement to RIT's Office of Student Conduct and Conflict Resolution, on a form entitled "Sexual Harassment, Discrimination and Sexual Misconduct Reporting."

15. The statement read in full, "I was sexually assaulted/raped by Marcel at his house during a party he was hosting for our team (we both row for the rowing team)." A copy of the report as submitted is annexed as Exhibit A.

16. The reference to “Marcel” is to the plaintiff.

17. Except for the parenthetical statement that the parties “both row for the rowing team,” the statement is completely false and defamatory *per se*.

18. Sexual assault and rape are serious crimes under New York State law, see Penal L. § 130, and are felonies.

19. A false accusation of a serious crime is defamatory *per se*.

20. On August 22, 2022, defendant submitted a formal complaint to RIT, accusing plaintiff of raping or violating her sexually, on three separate occasions in September and October 2021. A copy of the complaint, which contains additional false and defamatory accusations, is annexed as Exhibit B.

21. Defendant later brought another six separate accusations against plaintiff, again accusing him of sexual assault, when she claimed that she was too drunk to consent, on following dates where they went to movies or had dinner.

22. The RIT responded to defendant’s nine accusations by scheduling and holding a hearing.

23. The hearing was on April 19, 2023, and both plaintiff and defendant were questioned and spoke at the hearing.

24. The hearing was presided over by two RIT officials and one outside attorney hired by RIT.

25. The parties were not under oath at the hearing, but their statements submitted had to be signed, certifying that they were “true and factual to the best of my knowledge.”

26. On May 5, 2023, RIT sent to plaintiff a report rejecting each and every one defendant’s nine separate accusations. A copy of the report is annexed as Exhibit C.

27. The report found that defendant’s testimony was “not credible” as to each and every allegation.

28. Despite having been fully exonerated by the report, plaintiff has been severely damaged, both professionally and personally, by the false and defamatory statements made by the defendant.

FIRST CAUSE OF ACTION
(Libel *per se*)

29. Plaintiff re-alleges paragraphs 1 through 28.

30. The defendant’s above-described statements, taken both individually and as a whole, are false and defamatory *per se*, in that they falsely accuse plaintiff of committing serious and felonious crimes.

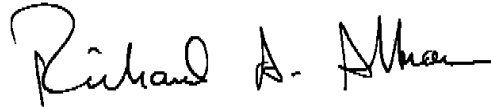
31. Plaintiff is entitled to a judicial declaration that the nine statements are, both individually and taken as a whole, false and defamatory, and to compensatory and punitive damages in such sums as the Court and a jury may direct, but not less than \$100,000 each.

WHEREFORE, plaintiff demands relief as follows:

A judgment declaring that the nine statements made by the defendant are false and defamatory, and awarding compensatory and punitive damages against defendant in such sums as may be awarded by a jury and the Court, but not less than \$100,000 on each one;

Together with the costs and disbursements of this action, and such other relief as may be just, including reasonable counsel fees.

Dated: New York, New York
July 26, 2023

A handwritten signature in black ink, appearing to read "Richard A. Altman". The signature is fluid and cursive, with the first name "Richard" being more prominent than the last name "Altman".

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